

Whitefish School Trust Lands Neighborhood Plan

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draft

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Whitefish School Trust Lands Neighborhood Plan

I. Introduction and Overview-

The Whitefish State Trust Lands Neighborhood Plan is a land use plan for the 13,000+ acres of State School Trust Land surrounding the community of Whitefish in Flathead County, Montana. This Plan defines future land uses for State Trust Lands that comprise a large portion of the area covered by the Whitefish City/County Master Plan adopted in 1996, and the remainder by the Flathead County Master Plan of 1987. This Neighborhood Plan will become an integral part of any growth policy plan that may be updated at periodic intervals by the City of Whitefish or Flathead County. The Whitefish State Trust Lands Neighborhood Plan is the first large-scale, collaborative land use plan that has been prepared for school trust lands in the State of Montana.

The public planning process for the Whitefish State Trust Lands was initiated by the Montana Department of Natural Resources (DNRC) in March 2003 with assistance from Community Development Services (CDS), a planning firm based in Butte, Montana. The initial agency plan developed a broad set of goals and policies to assist in evaluating development proposals in the rapidly growing Whitefish area. However, given the importance of State Trust Lands to the community and the lack of clarity about Trust Land's mandate, members of the community sought to develop a more open and representative process. Local residents approached the State Board of Land Commissioners (Land Board), which oversees DNRC management of School Trust Lands, to request a more collaborative, community based land use planning process that would both protect important community values and honor Trust Land financial objectives.

At its September 2003 meeting, the Land Board responded by chartering a diverse stakeholder group, including DNRC staff, to work collaboratively to develop a land use plan that met the needs of both the Trust and the community. In developing the charter, the Land Board exercised its fiduciary responsibility by recognizing: 1) that the Trust benefits when conflict is minimized by meaningfully involving local communities in the management decisions of neighboring State School Trust Lands; 2) high quality land use planning adds value to trust assets; 3) Trust management decisions must result in stable and economically vital communities in order to ensure long term and short term revenue opportunities for beneficiaries; and 4) recreation, conservation, and other "non-development" values on state lands significantly enhance property values, thereby increasing the tax revenues available for school districts and supporting local economies.

The charter authorizes the Whitefish Advisory Group to develop a sound land use plan for the 13,000+ acres of school trust lands surrounding Whitefish that will provide increased revenue for the beneficiaries of the School Trusts while maintaining the economic, environmental and cultural vitality of the community of Whitefish and surrounding areas. The Advisory Group hired its own consultant, Conservation Partners, and engaged in the planning process that created this Neighborhood Plan. Over the

course of five months leading up to October 2004, the Advisory Group met in four work sessions with Conservation Partners, conducted numerous phone conferences and held two public meetings to update the public on the progress of the plan and obtain input. Recognizing that the diverse members of the Advisory Group were coming to the process with very different viewpoints, the Advisory Group first defined and agreed to a set of Principles or Criteria for Success that have served to guide deliberations and interaction (included in appendix).

Given that the Advisory Group contained representatives of differing constituencies, deliberations were at times contentious, but all parties understood that it was critically important to persevere to produce a plan that all could support. They recognized that only if all participants supported the outcome did the plan have a chance of effectively establishing a framework for success. The planning process assembled all of the current and available information relating to these lands and created an atlas of aerial photos and maps illustrating a variety of natural resource, ownership, physical, hydrologic and other information. Using this information, the Advisory Group worked through the planning issues for each subarea to produce several alternatives that were ultimately refined to create this Plan.

As with all plans, this is not the end of the road, but the beginning of the hard work of implementing the actions identified herein. It will take the same spirit of cooperation, creativity and stick-to-itiveness that went into the creation of this Plan to move ahead in the years to come. If these actions are successful, this may well be a blue print on how other communities can protect lands and resources important to their sense of place and identity and how State Trust Lands can meet their fiduciary requirements in a complementary and predictable manner.

The overall goals of this Plan are to:

- Create a framework for orderly and predictable conservation and development land uses on State Trust Lands over the next twenty years;
- Create understandings between the City of Whitefish, Flathead County, the DNRC and their partners, necessary to complete a set of transactions to protect important conservation lands and meet Trust Land fiduciary objectives;
- Generate long term and fair economic return from the use of State Trust Lands for Montana's public schools and other beneficiaries;
- Minimize or reduce the risk of catastrophic fire in Flathead County neighborhoods and the City of Whitefish that are adjacent to State Trust lands;
- Preserve and maintain critical wildlife habitat for sensitive, threatened and/or locally significant species;

- Maintain the high water quality in the Whitefish Lake watershed, the primary drinking water source for the City of Whitefish;
- Maintain the scenic rural, small-town character and landscape of rural Flathead County and the community of Whitefish, and;
- Enhance the recreational use of State Trust Lands for multiple users in a manner that supports the local economy and provides responsible stewardship of natural resources.

II. Plan Concepts, Policies and Implementation Strategies for all School Trust Lands in this Neighborhood Plan

This section addresses concepts, policies and implementation strategies for all of the 13,000+ acres of School Trust Lands within this Neighborhood Plan.

Policy # 1. Create a Multi-Purpose, Regional Recreation System that Links the School Trust Lands in the Whitefish Area.

A number of the State Trust Lands create a ring of undeveloped land surrounding the City of Whitefish on the north, west and south. Residents in nearby neighborhoods and visitors to the area use these lands for a variety of recreational uses. While trails have evolved in an ad hoc fashion, they have not been planned, developed or maintained to maximize the experience of these lands or interconnections to the community. This plan calls for the creation of a Regional Recreation System as a significant amenity to the area with the following characteristics:

Implementation Strategy 1.1 Create a Regional Loop Trail. Through the cooperation of multiple partners, there is an opportunity to create an interconnected trail that stretches from a trailhead on Swift Creek at the north end of Whitefish Lake, to Boyle Lake and south through Beaver Lakes and Skyles and ending up on the southern end of Spencer Mountain. This trail can be connected in a continuous loop to the City of Whitefish. The new multi-use trail would be the spine of a recreational system that interconnects to neighborhoods and trailheads along the way.

Implementation Strategy 1.2 Develop a Recreational Plan for the Beaver Lakes Recreation Area. The Beaver Lakes State Trust Land parcel is the largest State Trust Land parcel encompassing 4,800 acres. It contains six lakes and a wide variety of scenic terrain. A recreational plan for the area needs to be prepared through the cooperation of DNRC, MT FWP, City of Whitefish and Flathead County that systematically determines appropriate access, trailheads, wildlife areas and how the system is to be developed and maintained. The idea of a recreational hut system should be explored as part of this process.

Implementation Strategy 1.3 Create an Area-Wide Fire Mitigation Strategy. In conjunction with the development of the recreational system, DNRC, MT FWP, the City of Whitefish and Flathead County should explore the creation of a fire mitigation strategy or firebreak that would significantly reduce the potential for catastrophic wildfire, further protecting the value of these Trust Lands and reducing firefighting expense. Since the State Trust Lands surround the City of Whitefish and Flathead County neighborhoods to the north, west and south of Whitefish, there is the opportunity to explore a fire mitigation strategy in conjunction with the creation of the recreational trail. The cooperation of the four jurisdictions could be useful in obtaining federal grants to determine and implement the best strategy.

Policy # 2. Reduce Uncertainty, Enhance Income to the School Trusts and Increase Protection of Lands Important to the Community

The Montana Department of Natural Resources (DNRC) administers State Trust Lands for the primary benefit of the State Trust beneficiaries that include public education. DNRC operates under a constitutional mandate to manage these lands to maximize revenue, while considering environmental and economic factors. Since the Whitefish School Trust Lands have appreciated dramatically over the past ten years, there is increasing pressure and temptation to sell some of these lands to increase short-term revenue to the State Trust beneficiaries. To increase predictability, this Plan identifies a set of strategies to *permanently* protect the most important lands and ensure that they will be available for public recreational use for generations to come. In some cases the Plan recommends that DNRC continue to manage lands for traditional uses such as forestry and recreation. However, recommendations to continue traditional forestry management and uses are made with the understanding that in the future DNRC might entertain proposals to lease or dispose of these lands for development in order to generate additional revenue.

Wherever possible, this Plan recommends actions that protect the most important lands *permanently* over the next twenty years rather than putting these decisions off to an uncertain future. Implementing this Plan will also generate substantial return to the State School Trust through the sale of development rights and high value, but a very limited number of home sites in carefully selected areas. The sale or leasing of these high value sites helps pay for permanent deed restrictions, or conservation easements, on over 90% of the land. Through actions undertaken according to a phased and predictable timetable in this Plan, the community will help determine the future of these lands once and for all. Traditional uses such as forestry and recreation shall continue and in most cases DNRC will continue to manage and obtain revenue from timberland and specific recreational uses.

Policy # 3. Land Use Actions on School Trust Lands Should Support Community Values.

The 13,000 acres of Whitefish State Trust Lands have great importance to the regional community and the economy of the Flathead Valley. In cases like Happy Valley and KM, these lands are surrounded by development and provide open space, wildlife habitat, scenic and recreational opportunities to people in adjacent neighborhoods. In other places like Spencer and Beaver Lakes, they provide recreational access to people from throughout the community and visitors who learn of their availability from area sports retailers. Recreational uses include: mountain biking, hiking, hunting and fishing, wildlife viewing, horseback riding, cross country skiing, backcountry skiing, snow shoeing, snowmobiling and water activities. Since these lands are in the transition area from urban to rural they all provide wildlife habitat in varying degrees of importance. Swift Creek and Haskell Basin are parts of important watersheds supplying Whitefish Lake and the City of Whitefish water supply. These values are documented on the resource maps for the region and for each subarea. An understanding of these values has guided the development of the subarea plans.

Implementation Strategy 3.1 Develop a Geographic Information System that Illustrates the Natural, Physical and other Resource Values of these Lands. To identify the important natural resource and community values of the State Trust Lands, all current and available information was gathered into a geographic information database that created a set of resource and aerial photo maps. These maps are identified in this Plan and should continue to guide the implementation actions of this Plan.

Policy # 4. Utilize a Flexible Menu of Techniques Tailored to Conservation Objectives to Protect Land.

In order to meet community objectives to protect as much of the State Trust Lands as possible from development, a full range of conservation techniques will be required. Some of these techniques involve complicated real estate transactions and concepts. The benefit of these approaches is that the DNRC can obtain fair return for the sale or lease of land or interests in its property in a variety of different ways that tap both private and public sources efficiently. A number of these techniques encourage private landowners and the DNRC to be partners with the community in protecting land.

Implementation Strategy 4.1 Emphasize the Use of the Following Conservation Techniques to Implement this Plan.

- a. **Conservation Easements.** A conservation easement is a permanent deed restriction that restricts future development on land with high recreation, public, scenic or wildlife qualities. The conservation easement restricts

future development rights, or partial ownership rights, and in return allows the landowner to take advantage of federal income and estate tax benefits. The value of the easement is determined by an independent appraisal, with the value of the easement representing the difference between the fair market value of the land and the value of the same land with the restrictions in place. Typically, easement value varies between 30 and 70 percent of fair market value, although values can be higher in some instances. A conservation easement is generally granted to a nonprofit land trust whose job it is to see that the terms of the deed restriction are not violated. Conservation easements on School Trust Lands will preserve public access where it has historically existed or is planned and in most cases will continue traditional forestry and recreational management. A conservation easement can be structured to reserve a few carefully selected home sites as will be discussed in the conservation buyer description below. Conservation easements can be placed on School Trust Lands in two ways. First, DNRC can sell conservation easements in certain limited cases to public entities or qualified nonprofit groups. Second, it can sell land to buyers who voluntarily place conservation easements on property restricting future development.

- b. **Conservation Buyer.** A conservation buyer is a purchaser of a conservation easement or a large parcel of School Trust land that pays fair market value for the land or easement and desires to keep the land open and undeveloped. In order to keep the land undeveloped, the conservation buyer places a conservation easement on the land that limits future development of the property. In some instances, a conservation buyer may reserve the opportunity to create a 5-acre home site. In this case, the purchaser may take advantage of tax benefits available from the gift of the easement and obtain a valuable home site surrounded by protected land. This Plan is based on the premise that buyers that obtain or gain control of what is currently public land should assist the community in protecting remaining School Trust Lands. As a consequence, the community seeks private partners that are willing to assist in the protection of as much of the School Trust Lands as possible. In order to obtain greater access rights, conservation buyers will need to demonstrate a commitment to protecting additional lands important to the community. Below is the proposed three-tiered approach:

1. *Conservation Easement.* Purchaser acquires a minimum 50-acre conservation easement on School Trust Land that prevents future development or purchases the 50 acres and donates a conservation easement on the land that eliminates future development. In either case, public access to the land is maintained.
2. *Conservation Easement with Retained Home Site.* Purchaser protects land and acquires a home site in one of two ways. In the first alternative, the buyer acquires a minimum of 250 acres of land, retains

the right to build on one five-acre home site and donates a conservation easement over the remaining land, thereby obtaining a variety of tax benefits. The buyer may also want to donate the fee interest back to School Trust Lands for additional tax benefits and for the land to continue to be managed by DNRC. In the second option, the buyer purchases a five-acre home site and a conservation easement over a minimum of 250 acres of adjacent School Trust land. This second option is currently not allowed under Montana law, but could be with minor legislative changes. In appropriate locations, the conservation buyer also has the option to acquire a land use license on 20 to 160 acres of land surrounding the home site to ensure privacy and manage land to maintain a healthy forest. For both options, public access outside the five-acre home site is maintained, but may be limited to historic use or planned trails and corridors.

3. *Conservation Easement with Retained Home Site and Restricted Public Access.* This option is similar to the above alternative, except that 500 acres must be acquired or protected and the buyer has the right to restrict public access where historic access has not existed. In appropriate locations, the conservation buyer also has the option to acquire a land use license on 20 to 160 acres of land surrounding the home site to ensure privacy and manage land to maintain a healthy forest. Public access cannot be restricted in those locations where public access has historically existed or is planned.

The acreages associated with these three tiers are desirable targets, serving as guidelines that may be modified based on the particular circumstances of a transaction. In the final analysis, DNRC will have to determine whether sufficient value is being generated from proposed transactions.

- c. **Conservation Development.** Conservation development involves a limited amount of development on a property done in a manner that protects the open and productive qualities of the land. The density of development that normally would be permitted on a parcel of land may be reduced by as much as 75 to 90%. The density reduction is accomplished by placing a conservation easement on the open land that has conservation values such as wildlife habitat, outstanding scenery or productive forestland. The landowner obtains income from the sale of a few carefully selected home sites and from the tax benefits gained by granting the conservation easement. In conservation development the value of home sites is enhanced by their location next to protected lands and buildings are designed to blend in with surroundings. Often fences are restricted to ensure wildlife movement, the area of disturbance is minimized and road lengths and widths are kept to a minimum. Open space that is retained can be managed and utilized by the homeowners, the DNRC or another public or nonprofit entity.

- d. Cluster Development.** Cluster development uses a more compact pattern of development than large lot development. By placing smaller lots on less than half the total land area of a parcel, this type of development protects open space for recreational use, forestry production or to protect wildlife habitat and scenic views. Through cluster development, the same number of large lots that could have been created on the entire parcel are configured on a smaller portion of the site, creating a pattern of compact, smaller lots. This pattern of development can dramatically reduce the costs of roads and utilities because of the smaller lot sizes. Open space that is retained can be managed and utilized by the homeowners, the DNRC or another public or nonprofit entity.
- e. Public Purchase of Development Rights or Land.** The City of Whitefish, Flathead County and/or the Community Conservation Entity can raise funds or pass a bond issue for the purchase of a conservation easement or for the purchase of land. Many communities use funds from sales, property or real estate transfer taxes to fund open land protection. The benefit of the purchase of development rights (a conservation easement) is that the cost to acquire the easement is less than acquisition of land and management stays with DNRC, who can continue to derive revenue from traditional uses. In addition, there are a variety of federal funding programs that assist communities in the protection of important lands.
- f. Land Trade.** Through a land exchange, land or interests in land can be exchanged for other land of similar value. The benefit to a private party in a land trade is that the exchange can be accomplished without the tax consequences that accompany sale of land.

Implementation Strategy 4.2 Land Trades Involving School Trust Lands should only be made for other lands in the Whitefish Area. Land trades of School Trust lands in the Whitefish area should be made in those instances where DNRC can create a more coherent and logical pattern of ownership in the best interests of the State School Trust beneficiaries. The trading of the Whitefish State Trust Lands should be made for other desirable lands in the greater Whitefish area.

Implementation Strategy 4.3 Leasing Lands for Development Land Uses should take Preference over the Sale of Land. It is a stated preference of this Plan that wherever possible, lands that are proposed for development land uses be leased, unless leasing produces an inferior return.

Policy # 5. Engage a Variety of Partners to Help Implement this Plan.

This Plan was created by the combined efforts of a variety of constituencies that have worked to resolve differences and define common ground. The Plan is ambitious and will require continued constructive engagement of these parties if it is to be successful. Implementation will require even greater and more diverse partnerships with a broader set of resources, interests and agencies.

This plan seeks to engage a variety of community, charitable and governmental partners in the protection of important State Trust Lands. These include the basic partnership between DNRC and the community to carry out the Plan, a number of public funding programs, private charitable sources, area land trusts and Community Transaction Partners (discussed below), interested community members and area landowners.

Policy # 6. Provide Adequate Time for the Community and DNRC to Meet Their Respective Goals According to an Agreed Upon Timetable and Periodically Assess Progress in Meeting Goals.

This plan differs from traditional land use plans in that it identifies a flexible menu of options to implement actions that will achieve results that are beneficial to both DNRC and the community. While it recommends a desired future condition for these lands and a set of performance guidelines for achieving these results, it specifically does not recommend specific zoning or land use controls. It does give the community and DNRC the time that both parties need to work creatively to achieve mutual objectives. Given the fact that these transactions are complicated and will require time and expertise to complete, the timeframes for their completion are long in planning terms. The capacities of both DNRC and the community to manage this process are finite and in order to maximize the potential for success, a phased timetable for completion of transactions has been developed. The phasing works to the advantage of both the community and DNRC. It gives the community the time it needs to work with partners to put together transactions creatively that maximize conservation benefits. For DNRC, the phasing ensures that it can take a careful, measured look at each transaction with the knowledge that the value of its assets is appreciating.

Implementation Strategy 6.1 Use the Timetables Outlined Below to Guide Actions in each of the Trust Lands Subareas. This Plan identifies the desired future condition for each of the subareas. The public and private actions that achieve the elements of the desired future condition can be initiated and presented to DNRC at any time. Some of the transactions on the timetable (Stillwater and KM) have shorter timeframes because they are more straightforward and easier to accomplish than others. The Plan recognizes that actions in many areas will take more time and are inherently more complicated so that the time periods for completion are at least ten years (Spencer, Swift Creek and Beaver Lakes). In several of the areas,

performance criteria have been established for proposals that will be utilized to evaluate proposals as they are generated. Also, as the community and its partners develop greater capacity to implement the subarea plans, expectations of success increase.

The chart below shows that for all the subareas, the community, DNRC and other partners will initiate some actions in all of the areas. At the end of five-year and ten-year increments, the parties will make an assessment of progress. The target for the first five years is to implement actions, or have projects nearing completion, on a total of 1,000 acres of land. These actions may be to protect all or most of that acreage or to develop those areas identified for limited development in the Plan. The parties will assess progress to that point and may agree to make changes or adjustments necessary to improve performance. At the end of ten years, another assessment will be made, with the expectation that a total of 2,500 acres will have been addressed or have projects nearing completion according to the Plan. The timetable below identifies when certain actions are programmed to occur.

(Insert timetable)

To the extent that the community is successful in these initial transactions, the timeframes for all transactions can be extended. For example, if the community and DNRC are successful in implementing significant portions of any two of the KM, Stillwater, Beaver Lakes or Swift Creek projects (1,000 acres in 5 years and 2,500 acres in 10 years), the timeframes for completing all other subareas will be pushed out by an additional five to ten years (this is shown on the second chart as an illustration). This strategy recognizes and rewards the community for its actions by extending the timetable for future actions, although it should be recognized that extension of timetables would likely result in higher land values.

(Insert Extended Timetable)

Policy # 7. Utilize Existing or Develop New Transaction Capacity to Assist the Community and DNRC in the Implementation of this Plan

In order to increase School Trust Land revenue and achieve community land protection objectives, there is a critical need to increase capacity necessary to develop and negotiate proposals and transactions on behalf of the community with DNRC and

private landowners. New or existing governmental or non-profit entities can provide transaction capacity as Community Transaction Partners. Since the successful implementation of this plan requires working through complicated real estate transactions that achieve the maximum conservation with the minimum amount of development, assisting new or existing entities will need to possess competent transactional skills, capacity to utilize the menu of land protection techniques, an ability to work with diverse parties and effective communication skills to maintain the confidence of DNRC, the City of Whitefish and Flathead County. The community has a number of options to meet this need including:

- a) Existing Land Trusts. Work with existing land trusts such as the Montana Land Reliance or the Flathead Land Trust, who would agree to take on this project as a major initiative and would expect support from the community in order to cover staff requirements. In working with a land trust, the community could establish a representative advisory committee that would work with the land trust's staff to guide the implementation of projects.
- b) New Nonprofit. A new 501 (c)(3) nonprofit entity could be created with community participation to work with the community, City and County to develop and negotiate proposals for DNRC review. Such an entity could work with an existing land trust to implement transactions or develop its own capacity to perform conservation and development transactions or develop some hybrid combination.
- c) New Land Trust. A new 501 (c)(3) nonprofit land trust could be created with community participation that would work to protect lands in the Whitefish area with a primary focus on implementing the transactions necessary to implement the Plan. In this case the new land trust could hold conservation easements and other interests in land and would have to hire either staff or contractors to implement projects.
- d) City/County Open Land Protection Program. A new governmental program with funding and dedicated staff could be created to perform the conservation entity functions.

In order to maximize the potential for success, there may be several entities available to assist the community with transactions, each with different skills and capacities necessary to complete different types of transactions. In general, it is always better to work with existing entities rather than establish a new organization. Therefore, option a) is preferable. However, since the effort will require financial support from the community it may be advisable also to pursue options b) or c), establishing a new nonprofit entity so that its fundraising is separate from its land trust partner. If problems ever develop between the land trust and the nonprofit entity, both can go their own way without compromising the effort. Option d) would require a dedicated funding source and the creation of governmental capacity to pursue land protection. It is probably the least efficient of the alternatives. The functions that Community Transaction Partners could fulfill include some or all of the following:

- a) Raise funds to support the protection of identified lands and identify community fundraising options, federal, state and charitable grants and other funding sources for consideration by the community.
- b) Represent and communicate the interests of the community, City of Whitefish and Flathead County in negotiations with DNRC and private landowners in order to develop and complete the transactions necessary to implement this Plan.
- c) Cultivate private sector interest and participation in the full menu of creative land protection options that implement this Plan and are in the best interests of the community.
- d) Work with a variety of partners to fund and prepare plans for the Regional Recreation System including the multi-use trail, the care and maintenance of the recreational system, the Fire Mitigation Strategy and timber management, specific plans that may be necessary in a subarea and to assist the Happy Valley neighborhood in finding a community solution to septic disposal problems.
- e) Ensure that the elements of this Plan are implemented effectively in State Land Trust transactions involving transfers of land or interests in land.
- f) Ensure that the terms of conservation easements and other land use agreements are monitored and enforced.
- g) Manage lands, trails and other assets on DNRC lands as appropriate and in conjunction with other community partners.
- h) Assist public partners in working for state legislative changes that may be necessary to implement this Plan.

DNRC will work with those entities that demonstrate a capacity to help implement the goals and policies of this Plan.

Policy # 8. Explore ways to Generate Additional Revenue on School Trust Lands in ways that are Compatible with Maintaining Community Values

In addition to the revenue generating strategies identified for the subareas, this Plan recommends that DNRC reform its permit system and make more creative use of its existing tools such as land use licenses, while exploring emerging recreational markets. Throughout the planning process, residents have stated that the existing permit process is confusing and ineffectual. In order to address this situation, this Plan recommends that DNRC work with Community Transaction Partners, different user groups, neighborhoods and local business interests to design and implement a permit system that is user friendly, encourages users to act responsibly and is more efficient in generating revenue to maintain lands and trails. In addition, to the extent that a portion of the proceeds from the use of State Trust Lands can be allocated to their direct management, the greater the likelihood that the local community will embrace a new permit system and take a greater role in the responsible management and stewardship of State Trust Lands. Additional and compatible recreational uses, such as the proposed backcountry lodge on the Beaver Lakes parcel, should be explored. In addition, emerging recreational markets, such as guided trips, will increasingly offer ways to both derive income and compatibly use these unique lands.

Policy # 9. Formalize Agreements Necessary to Define Roles, Expectations and Processes Necessary to Implement This Plan

Implementation Strategy 6.1 Develop Operating Plans and Implementation Agreements Between the Parties to this Plan.

In order to implement this Plan, it may be desirable for DNRC, local jurisdictions and/or Community Transaction Partners (described above) to establish an Operating Plan or other agreement that explains how they will work together to implement this Plan. Such plan or agreement should identify the roles, process and expectations of the parties and how they will work with each other to accomplish the Plan objectives. Another option to establish the relationship between DNRC and a Community Transaction Partner would be if DNRC were requested to become an advisor or ex-officio member of the organization to more effectively achieve implement the Plan. In this case, a description of roles, processes and functions might be spelled out in the organization's bylaws.

Policy # 10. Pursue Legislative Changes Necessary to Implement Components of this Plan

Currently, it is clear that DNRC has the authority to dispose of lands at auction and can reject all offers unless bids are sufficient to meet estimates of fair market value. DNRC also has the ability to sell development rights, or a conservation easement, on State Trust Lands at fair market value, but only in very limited circumstances. If the community and DNRC are to meet mutually identified objectives, these limitations on the sale of conservation easements should be modified so that it is clear that DNRC has the authority to sell conservation easements to governmental entities or a qualified nonprofit organization. This will provide the State School Trust with another avenue to increase revenue from lands that should remain in an undeveloped condition while still retaining the underlying fee. Retaining the underlying fee interest in its lands will permit DNRC to obtain continuing annual income from traditional activities such as grazing, mineral development or forestry operations.

Another legislative change that might be considered would be giving local communities the first option to acquire lands that DNRC proposes to sell. The communities would need to pay fair market value for the interests that are being disposed, but would have preference over private interests. This change would permit communities to influence more effectively the future of these lands that in many cases have become important community assets.

Policy # 11. Improve the Stewardship and Management of State Trust Lands

Most of the Whitefish State Trust Lands covered by this Plan will continue to be managed by the DNRC for forestry and recreational uses. Over time and through the operation of this Plan, most of these lands will be permanently protected from future development through legal restrictions, primarily conservation easements. In many ways, these lands will become community lands because they will have been

protected in large part through the actions of the community for their benefit and enjoyment. Community members, users and the DNRC have the responsibility and opportunity to work together to improve the management and maintenance of these lands in a more coordinated and organized manner. The issues of the firebreak, trail maintenance, forestry practices and wildlife habitat management are not just DNRC issues but issues that can be constructively addressed by partnerships between the community, businesses, users, neighborhoods and DNRC. These lands will continue to be managed as forestry lands that permit traditional uses and generate a return for the Trust beneficiaries. The following description applies to DNRC's management of these lands:

With the exception of areas that are ultimately developed, State Trust Lands will be managed in their existing DNRC classification that in most cases is forestry. Secondary uses such as organized recreation (i.e., mountain biking parks, frisbee golf, archery range, paintball, annual sporting events), outfitting, commercially guided recreation, etc... should be encouraged to generate additional income and meet land management objectives. Secondary uses should be carefully considered based on their impact to experience of the general recreational user.

Policy # 12. Develop Specific Plans for each Subarea within this Neighborhood Plan that Address their Unique Attributes, Issues and Community Values.

Section III. Sub Area Plans:

A. Happy Valley/KM Subarea

1. Happy Valley Current Situation and Planning Issues

The Happy Valley Trust Lands parcel is approximately 480 acres in size and contains relatively flat, timbered land interspersed with a few small meadows. The area has some “perched” water and poor drainage. The Happy Valley area is well developed and the neighborhood provides a diversity of housing types that are more affordable than found in many areas near Whitefish.

The Trust Lands parcel currently provides open space, recreational trails and access opportunities for the surrounding community. Recreational uses include mountain biking, hiking, horseback riding, cross country skiing, backcountry skiing, snow shoeing, snowmobiling, ATV use, hunting, wildlife viewing, and paintball. Trailheads are located on several streets bordering Happy Valley. Trails are generally old logging roads and skid trails. Sports stores in Whitefish send visitors to Happy Valley for paintball, easy biking trails, cross country skiing, hiking and hunting. Neighborhood residents use the land for biking, horseback riding, hiking, cross country skiing, ATV use and snowmobiling. In some instances, this heavy recreational use has resulted in negative impacts (unauthorized motorized use, vandalism, eroded trails, trash).

Happy Valley is accessed from Highway 93 and is bounded by Bowdish Drive, Meadow Lane, Elk Trail and Primrose Lane, all county roads. Access to Highway 93 is challenging at times and some local roads experience heavy traffic and related safety issues.

Lands developed at a variety of densities surround the Happy Valley subarea. To the north and west are one-half to one-acre residential properties, including some areas zoned R-2 that permits half-acre sites. To the east are larger lots of five to ten acres in size and to the south are large, predominantly undeveloped agricultural and forestry parcels.

The high density of adjacent development and the lack of community water and sewer availability results in a high density of individual septic treatment systems and individual wells in the area. Moreover, the area suffers from a high water table, a history of flooding and poor soils for on-site individual septic treatment systems. As a result, residents are concerned about the potential health effects of the current situation and worried that additional development would make the situation worse. The City of Whitefish sewer system is 4 1/2 miles to the north and currently there are no plans to extend lines to the south. Connections to the sewer line would be expensive and might be opposed by Whitefish community even if practical.

The parcel is heavily timbered and provides a variety of wildlife habitat including white-tailed deer winter range. A recently completed timber management demonstration project

on the periphery of the Trust Lands site improved the timber stand and met multiple objectives for mitigating wildfire hazards and improving visual quality, recreational access and wildlife habitat. Timber sales on the remaining portions of the site are planned.

2. Planning Process

The Advisory Committee reviewed a variety of site information and area conditions as shown on the accompanying maps. Key concerns with changing land uses on this site are the high water table conditions, wetlands in the southwest corner, existing septic tank failure conditions, the need for open space in the neighborhood, traffic conditions on access roads and the use of the area for a variety of recreational activities. The Advisory Group believes that unless alternative land uses can address these issues in a constructive manner, it would be irresponsible to propose new density in the area. Several alternative minimal development configurations were examined that took advantage of high points on the land, but the group concluded that without understanding a variety of potential technological and other solutions to the development issues that it was premature to identify definitive areas for specific land uses.

3. Happy Valley Subarea Neighborhood Plan Concept and Implementation Strategy

The overall strategy for Happy Valley is to retain the land in traditional uses until such time as private or public/private solutions are generated that address a number of the development constraints and concerns of the neighborhood community. In addition, public funds that could lead to solutions for the community-wide septic issues should be pursued. Happy Valley will be retained in traditional forestry and recreational uses for the next ten years. During this ten-year period, DNRC will entertain any proposal from a public or nonprofit entity or several conservation buyers that would generate fair return for the land and retain it in open space. In determining the fair market value of the land and conservation easements, DNRC will rely on an independent appraisal of the land according to the land use and performance criteria identified below. During the ten-year period, DNRC will also entertain proposals from private or public/private entities that propose changing the use of Happy Valley in a manner that meets the following conditions:

If DNRC has not received any proposals at the end of the ten-year period that meet the above requirements, it may continue to work with the neighborhood under the same conditions or it may accept additional proposals that solve the septic treatment and open space protection issues in different ways. If there has been sufficient progress in generating additional revenues on two of the other subareas, then the timeframe for DNRC to pursue other alternatives will be extended an additional five years.

All proposed uses that meet the above conditions and that require County subdivision approval will be reviewed by Flathead County. In addition, DNRC will commit to conducting one or more public meetings in the neighborhood at the time that it is seriously considering any proposal. Community Transaction Partners should also work with the Happy Valley neighborhood and other governmental entities to help locate

government grants or other funds to protect Happy Valley and to address the community wastewater treatment issues. With time and some assistance, the neighborhood may be able to permanently protect Happy Valley and address the wastewater treatment problem at the same time.

4. KM Current Situation and Planning Issues

The KM Area is a 480-acre timbered area bisected by the KM Ranch Road and Spring Prairie Road, both County roads. The subarea includes an additional isolated 40-acre parcel surrounded by private land and leased for grazing. The subarea is surrounded by a variety of large and small private parcels, interspersed with agricultural and timber lands. The eastern portion of the parcel consists of rolling timberland, much of it dog hair lodge pole pine. The area has a number of old logging roads that are frequented by trail users and four wheelers. The west side is timbered and bordered by rural landowners, a trap shooting range and the County landfill. Whitetail deer and other wildlife frequent the area.

The KM area is used primarily for timber production. The public uses old logging roads and skid trails for recreational activities. Recreational uses include mountain biking, hiking, gun club use, hunting, ATV use, horseback riding, cross country skiing, backcountry skiing, snow shoeing, wildlife viewing and snowmobiling. Trails are accessed from KM Road. The land is currently leased for grazing purposes (165 acres), agricultural use (5 acres) and residential use (5 acres).

5. Planning Process

KM is a relatively flat, timbered parcel with the only steep portion being the land adjacent to the KM road on the east side. The Advisory Group looked at the existing site conditions, neighborhood use of the site, the development patterns in the neighborhood and discussed various ways that a portion of KM could be developed in order to protect the majority of the parcel.

6. KM Subarea Neighborhood Plan Concept and Implementation Strategy

The objective of the approach adopted for KM is to permanently protect for public access and use the east side of KM road by transferring density through conservation development to a portion of the west side of the road. As a result, limited, but valuable real estate products are created on a small portion of the land while DNRC continues to manage most of the land for traditional forestry. In order for this concept to be put in motion, the KM parcel will be divided into three areas. These areas are:

1. *Southwest Corner.* This area consists of an approximately 75-acre parcel of land east of KM Ranch Road and south of Spring Prairie Road. This parcel of land will be available for purchase by conservation buyers or for development. At a 20-acre density, this parcel could accommodate three home sites. However, to the extent that the density of this parcel is permitted to increase, it will help protect the East Side. For each additional unit of density on the southwest corner, a 20-acre portion of the east side can be permanently protected with a conservation

- easement. DNRC will accept proposals for sale or lease of the Southwest Corner that are at densities or values sufficient to protect portions of the East Side.
2. *East Side.* The east side of KM Road is a 230-acre parcel that has the greatest importance to the community. It shall remain undeveloped and managed for timber and recreation by DNRC for a minimum of ten years. It will remain undeveloped and managed for a combination of timber and recreation until DNRC receives an acceptable offer for the Southwest Corner that purchases density from this parcel. The way that this will work is that for every additional unit added to the Southwest corner above 3 units, a 20-acre portion of the East Side will be protected by a conservation easement. In addition, neighbors or other community members can assist as conservation buyers by purchasing the development rights (conservation easement) over a specific portion of the East Side.
 3. *West Side.* The West Side encompasses 175 acres that shall remain undeveloped and managed for timber, wildlife and recreation by DNRC for a period of at least ten years. At the end of that time, DNRC may sell home sites to one to three conservation buyers depending on how much of the East Side was protected through the transfer of development rights to the Southwest Corner. If no transfer of density occurred, then DNRC could sell the West Side to three conservation buyers; if all of the East Side was protected then only one conservation buyer home site would be available. The conservation buyers would pay the fair market value of the land but would be free to take potential tax benefits from the donation of the easement.

In addition, the isolated 40-acre parcel that is part of the KM subarea should remain in its current condition until the current grazing lease expires. At that point, DNRC would be free to evaluate whether to renew the existing grazing lease, enter into another long-term lease, sell a conservation easement, or sell the land to a conservation buyer. To the extent that it can, DNRC would give preference to neighbors in any change of ownership. In any event, no more than one home site with associated outbuildings would be allowed on the parcel.

B. Swift Creek Subarea

1. Current Situation and Planning Issues

The Swift Creek parcel is a large 2,930-acre parcel at the north end of Whitefish Lake. The predominant feature of this area is Swift Creek, a major tributary of Whitefish Lake and a secondary source of water for the City of Whitefish. Swift Creek is classified as a Bull Trout/Cutthroat stream as well as water quality limited under the Clean Water Act. In addition, Lazy Creek is a tributary to Whitefish Lake flowing largely through State Trust Land and containing large amounts of organic material. The entire area is characterized by densely stocked forested land, much of it old growth timber.

The East Whitefish Lake Road, a narrow rural road inadequate for carrying current traffic loads, accesses the Swift Creek parcel. Due to steep slopes and limited rights of way, reconstruction of this road is unlikely as it would be extremely costly and destructive of

the lakeshore character. Additional development in the Swift Creek subarea is currently limited by poor access.

Whitefish Lake is located to the south of the subarea where virtually all the lake frontage is residential, including a few very large holdings as well as numerous half-acre and one-acre parcels. Some of these lake shorefront owners have failing septic disposal systems and would like to acquire access to a portion of State Trust Lands for septic leach fields. To the north, there are a number of large lot residential properties. Additional residential properties are interspersed with corporate timber holdings (Plum Creek) to the west and Forest Service lands are located to the east at the toe of the Whitefish Mountains. Smith Lake is located on a bench on the east side of the parcel and is accessed by a steep logging road. Smith Lake reportedly has dam safety issues.

The Swift Creek area experiences heavy recreational use. Recreational activities include mountain biking, hiking, fishing, wildlife viewing, horseback riding, cross country skiing, backcountry skiing, snow shoeing, snowmobiling and water activities. A trailhead at Swift Creek serves as access point for four-season recreational use to public and private lands further up Swift Creek and is heavily used by snowmobiles. Currently DNRC leases the area to commercial outfitters and for one residential access.

Swift Creek is a sensitive wildlife area containing winter range for elk, mule deer and white tail deer. In addition, sections 29 and 30 in the Swift Creek area are included in the Lazy Creek Subunit of North Continental Divide Ecosystem (NCDE) Grizzly Bear Recovery Area. The remaining Swift Creek area is included within occupied habitat, indicating that grizzly bears presently use and are expected to continue to use these areas. The Lazy Creek wolf pack uses portions of the Swift Creek area adjacent to the Plum Creek Olney Block. A bald eagle nest was documented in 2001 near Smith Lake in the Swift Creek area. This nest is no longer active and the current nesting status and location is unknown. Fisher habitat exists along Swift Creek.

2. Planning Process

The Advisory Committee reviewed a variety of site information as shown on the accompanying maps. Given the high community, wildlife, old growth, watershed and recreation values associated with the Swift Creek subarea, strategies focused on finding ways to generate revenue to protect most of the area with as minimal development as possible. The Advisory Committee discussed ways to engage the local neighborhood in protecting the area through a conservation buyer approach. It was felt that any home site development should be in fairly close proximity to existing development to minimize impacts on wildlife, that a no-build buffer should protect streams and that traditional recreational access should be maintained in any plan. Swift Creek is also the logical location for a trailhead for the Loop Trail that would travel from Swift Creek through Beaver Lakes to Spencer.

3. Subarea Neighborhood Plan Concept and Implementation Strategy

The basic concept behind the plan for Swift Creek is to engage the community at the north end of Whitefish Lake in the protection of the open land qualities of State Trust

Lands that define the special character of the area. The DNRC will continue to manage Swift Creek for timber and recreation for a minimum of ten years. Timber harvesting and recreational activities have the potential to generate greater revenues than they do currently.

During the next ten years, residents and others that have an interest in protecting the area will have the opportunity to assist in the permanent protection of the area and obtain a few carefully located home sites. The objective is to engage conservation buyers willing to assist in the protection of the entire area, with those that obtain greater access rights paying more than those obtaining fewer rights. Using the three tiered conservation buyer approach identified at the beginning of this Plan, a series of transactions can be assembled to protect the majority of Swift Creek and locate a few, highly valuable home sites in compatible locations. In all, there will be a maximum of six home sites available in an area that is within a half mile of the southern line of the State Trust Land boundary (approximately 1,065 acres). Ideally, those who share an interest in protecting the Swift Creek area would work together and with the Community Transaction Partners to structure a proposal to DNRC that protects as much land as possible. DNRC will evaluate the proposal in terms of whether it is receiving fair market value for the land interests that it is transferring. Preference would be given to leasing alternatives if they can generate fair return. If this approach works properly, a large portion of Swift Creek will be permanently protected.

At the end of ten years, or earlier if the parties agree, DNRC and the community will evaluate the success of this program. If the program has generated sufficient revenue or led to the permanent protection of more than 1,000 acres of Swift Creek, DNRC shall extend for another ten years the period that it will retain the remainder of Swift Creek in timber and recreation management. During this time, DNRC and the community will work towards a mutually beneficial strategy to protect and generate revenues from the remaining unprotected lands.

The Swift Creek subarea has some of the highest wildlife and natural values of any of the State Trust Lands. The siting of the six potential home sites needs to be accomplished with great sensitivity. The following performance guidelines shall be utilized in the selection of home site locations:

1. No more than a 5-acre building envelope may be utilized for a principal residence and a guest or caretaker house and outbuildings.
2. Building envelopes shall be within 1/2 mile of the existing State Trust Land boundary.
3. Building envelopes cannot be placed closer than 1/4-mile from traditional and planned recreational access routes and all traditional recreational access shall be maintained.
4. All structures shall be at least 100 feet from the nearest stream.
5. New construction shall minimize site disturbance and take all prudent erosion control measures.

6. New construction shall minimize roadway/driveway lengths and widths and minimize the amount of cut and fills. The DNRC reserves the right to reject any proposal that contains excessive roadway/driveway lengths.
7. Landscaping shall be achieved utilizing native vegetation and should screen all buildings from public view.
8. Open pole or wire agricultural fencing is permitted around the perimeter of the building envelope if it is “wildlife friendly” as determined by MT FWP. Solid fencing is permitted around small privacy areas directly adjacent to the main residence. Otherwise, no fencing is permitted.
9. In order to minimize wildlife conflicts home site owners should utilize practices and precautions identified in the Montana Fish Wildlife and Parks 'Living with Wildlife' brochures.
10. The use of materials, textures and colors found naturally occurring in the surrounding landscape are encouraged.
11. No towers or structures above 35 feet should be constructed on the building envelope.

In addition to the above revenue generating measures, DNRC could lease certain lands to adjacent landowners to use for a community leach field to address septic tank failures along the lake. This should be done in a manner that aids in the protection of other School Trust Lands and ensures that there is no devaluation of adjacent DNRC lands, the public’s right to use the lands or other opportunities to generate revenue.

C. Spencer Lake Subarea

1. Current Situation and Planning Issues

The Spencer Mountain parcel encompasses approximately 2,740 acres of timbered, rolling terrain in four parcels, the majority of which lies south of Highway 93 and to the east of the KM Road. The Spencer subarea is surrounded by developments of varying densities including the large lot Whitefish Hills subdivision to the east, the Highway 93 corridor and scattered development to the north and a mixture of large and small lot parcels intermingled with open agricultural lands on the west and south. There is increasing and heavy traffic on Highway 93 and the KM Ranch Road; the intersections of Highway 93 and Twin Bridges Road, and Twin Bridges and KM roads have been identified as dangerous by the school district.

The Spencer subarea includes three parcels of land that are separate from the main Spencer Mountain site. These include an isolated 40-acre parcel on the Stillwater River with no public access, a 200-acre parcel located south of Highway 93 with access to the highway and a 86-acre parcel lying to the north of Highway 93 above Spencer Lake.

Spencer Lake is located adjacent to Highway 93 where there is an informal trailhead for public access to the lake and Spencer Mountain. Spencer Mountain is steep with many areas of slopes in excess of 25%. The area is attractive for a variety of recreational uses including mountain biking, hiking, hunting and fishing, wildlife viewing, horseback riding, cross country skiing, backcountry skiing, snow shoeing, and unauthorized

motorcycle, ATV and snowmobile use. The south side of Spencer Mountain is less steep, with rolling terrain, providing expansive views to surrounding areas. Since Spencer Mountain is close to Whitefish and surrounding neighborhoods, the community and visitors heavily use its trail network. Preserving public access to Spencer Mountain for the large variety of users is viewed as an important community objective. The trailhead and parking area at Spencer Lake could be improved to better handle user volume.

The Whitefish Rifle Club, with 400 members has leased a 31-acre parcel on Spencer Mountain since 1969 and would like to continue operations. An additional 340 acres is leased for grazing. Previously the Flathead Archers had a lease on 20 acres. Spencer Mountain is frequented by a variety of wildlife that traverse the area and the western portion of the land lies within white-tailed deer winter range.

2. Planning Process

The Advisory Committee reviewed a variety of site information and area conditions as shown on the accompanying maps. The Committee looked at a number of alternatives for limited development and conservation buyers that would generate additional funds for State Trust Lands and allow for the permanent protection of most of the area. All of the alternatives left the main portion of Spencer Mountain open and undeveloped for continued recreation and forestry uses. The areas that were considered for development included the following: an isolated 40-acre parcel on the Stillwater River, a 200-acre parcel located south of Highway 93 with access to the highway, an 86-acre parcel lying to the north of Highway 93 above Spencer Lake and a 160-acre parcel on the northeast corner of the parcel just south of Highway 93 and adjacent to Whitefish Hills subdivision. There was also discussion of whether it would be appropriate to look at the southeast corner if the rifle club were to move at some point. The upshot of these discussions was the sense that defining the benefits and trade-offs of different areas would require more community involvement and understanding of the conservation and development options and impacts. The proposed strategy results from the need for greater community engagement in these decisions.

3. Subarea Neighborhood Plan Concept and Implementation Strategy

The Spencer subarea will continue to be managed by DNRC as a timber and recreational asset for a minimum of the next ten years. During this ten-year period, the community has the opportunity to develop a proposal to DNRC that defines the conservation and revenue generating strategy that it will pursue. The objective of this process will be to define the strategy that generates fair return to State Trust Lands and permanently protects the important community-identified lands on Spencer with as minimal development as possible. In order to initiate this process, an appraisal of the entire parcel and of its sub-parcels will be commissioned. DNRC and a Community Transaction Partner, with input from the City of Whitefish and Flathead County, will jointly develop the instructions to the appraiser. It is expected that the appraisal process will take about two years and that the appraiser will evaluate a variety of land interests so that the community can make informed decisions on the menu of techniques to protect as much of the land as possible. Techniques that will be evaluated include: purchase of easements, community fundraising, federal and state funding, conservation buyers, conservation

development, cluster development and development in specific areas. Following the determination of value, the community, with the help of the Community Transaction Partner and other partners, will determine the most appropriate mix of strategies and make a proposal to DNRC of its strategy to generate revenue and permanently protect the majority of the land. As part of this proposal, the community may include the Skyles subarea, if it deems that it can best be used to help protect Spencer. The community is free to work with other public and private partners in order to meet its objectives.

At the end of ten years, if substantial progress has been made (over 1,000 acres protected or substantial income generated), DNRC will commit to an additional ten years to work with the community and a Community Transaction Partner to protect the remainder. At any time, if the City of Whitefish, Flathead County and DNRC agree, these terms can be adjusted. If at the end of twenty years there are portions of Spencer that have not been protected, the community and DNRC will meet to develop a strategy or a new plan that will address their mutual objectives through cooperative action.

This Plan also recommends that DNRC, recreation groups, area sports stores and Community Transaction Partners meet to discuss ways to increase the effectiveness of the DNRC permit system, ways to improve recreational management of the area and leasing arrangements with different user groups. DNRC and the community can both benefit if the responsibility for the care and maintenance of the area are shared with the community and recreational users.

D. Beaver Lake/Skyles Subarea

1. Current Situation and Planning Issues

The Beaver Lake/Skyles parcel is the largest subarea, encompassing approximately 4,810 acres of land in two separate parcels. The Skyles parcel consists of approximately 600 acres in a U-shape around Skyles Lake. The more remote Beaver Lakes parcel consists of approximately 4,210 acres stretching from Boyle Lake near the north end of Whitefish Lake down to the Skyles parcel just north of Highway 93. With great scenic beauty, the varied terrain of Beaver Lakes includes cliffs, ridges, benches and potholes as well as six lakes in a relatively remote and pristine mountain environment. The area is frequented by a variety of recreational users with lakes being the primary destination.

Primary access to Beaver Lakes is from a county road off of Highway 93 to the southwest below Beaver Lake. Pedestrian and bike access closer to Whitefish are available off of Highway 93 near Skyles Lake from a gated road that is maintained by an adjacent landowner and DNRC. Some members of the community have complained that dirt piles and the presence of the private gate have discouraged pedestrian access into Beaver Lakes. This road was built to county road standards but currently has no public vehicular access other than for use by private owners and state management personnel according to specifications contained in a reciprocal access agreement. Access to Skyles Lake is from U.S. Highway 93.

Beaver Lakes and Skyles are surrounded by a large number of private parcels, both developed and undeveloped. To the east are Whitefish Lake and a large private landholding of approximately 400 acres. Lion Mountain, an upscale residential development of mountain top sites and smaller, one to two-acre lots, is located to the southeast. To the south, towards Highway 93, there are smaller residential tracts including one to five acre sites. A portion of this area is part of the Blanchard Lake Zoning District zoned for 15-acre residential tracts. Along Highway 93, towards Skyles Lake, the residential development has smaller lots and higher density. Going north, along the Skyles Lake Road, there are 5, 10, 20 and 40-acre residential lots. Larger private timber and agricultural lands, interspersed with residential development are located to the west, with U.S. Forest Service lands located to the southwest. The remaining areas surrounding Beaver Lakes/Skyles are privately held and used for residential purposes. There are 20 residential leaseholders at Beaver Lake. Within the Skyles Lake area, 7.38 acres are leased for residential purposes to three lessees.

Currently the area is managed for timber by the DNRC and there are large areas where fuel loads and tree mortality have built to the point that restoration and fire mitigation would be beneficial. Recreational uses in the subarea include mountain biking, hiking, hunting and fishing, wildlife viewing, horseback riding, cross country skiing, backcountry skiing, snow shoeing, snowmobiling and water activities. Sports stores in Whitefish send people to Beaver Lake for fishing. The lakes have good floating, easy shoreline access and ice fishing. Some areas in Beaver Lakes receive high recreational use with attendant negative impacts, especially along shorelines. Since the main vehicular access is a long county road and access near Whitefish is limited to hikers and bikers, recreation is not as well developed as on other parcels. Increasingly, however, unauthorized trails are being developed throughout the area.

Due to its large size and high and remote qualities, the area provides habitat for a variety of species, including critical winter range for elk, mule deer and white tail deer. Grizzly bears presently use and are expected to continue to use these areas. Loons consistently use Beaver, Boyle, Little Beaver, Murray, and Spencer Lakes. Skyles Lake receives sporadic recreational use. The CLWG documented loon reproduction on Beaver and Boyle Lakes. Beaver Lake supported a pair of loons until 2000. Recently, a pair was located on Little Beaver Lake, but no nesting activity was observed.

2. Planning Process

The Advisory Committee reviewed a site and surrounding area information as shown on the accompanying maps. This subarea contains a variety of steep ridges and valleys with slopes in excess of 25% that break up the land, making access challenging in certain areas. Discussions about Beaver Lakes focused on access issues, trails and recreational use, fire mitigation strategies, different kinds of minimal development that might produce revenues to protect other portions, the potential for conservation buyers and different small development areas. The Skyles parcel was not viewed as being as important to protect as the main Beaver Lakes piece. The east and west ends of Skyles were viewed as having development capability with the portion connecting the two being steep and difficult to develop.

3. Subarea Neighborhood Plan Concept and Implementation Strategy

In order to maximize the potential benefits of the large Beaver Lakes/Skyles area, this Plan recommends the creation of a Beaver Lakes Recreation Plan. The current trails have grown up in an ad hoc manner without a systematic evaluation of how the area can be a major regional amenity. This plan should be created through the participation of DNRC, MT FWP, a Community Transaction Partner, City of Whitefish and Flathead County. Among the elements that the plan should address are the following:

1. Identify a multiple user trail system that connects the lakes;
2. Define a loop trail that goes from Swift Creek, through Beaver Lakes and down to Spencer Mountain providing a unique opportunity to hike or bike in a continuous loop around the community and Whitefish Lake. There might even be the possibility of providing train service from Whitefish to the north end of Whitefish Lake near Boyle Lake for a combination train/bike/hike experience;
3. Identify trailheads to connect to principal roads and neighborhoods;
4. Examine the feasibility of a ski/hike hut system on State Trust Lands;
5. Identify new trail opportunities and places where social trails should be closed;
6. Examine the concept of a fire break on the west side of Whitefish, options for its creation and ways to integrate the concept into trail construction and management,
7. Recommend a management system;
8. Recommend a fee system to support DNRC and management; and,
9. Provide estimated budgets to create the system and properly maintain trails.

The Beaver Lakes/Skyles subarea will continue to be managed by DNRC as a timber and recreational asset for a minimum of the next ten years. During this ten-year period, the community and DNRC will initiate a number of revenue generating and land saving activities. These include:

A. Pursue Conservation Buyer Opportunities. As with Swift Creek and Spencer, there are a number of conservation buyer opportunities available in the Beaver Lakes subarea. The preferred strategy would be for interested conservation buyers to work with a Community Transaction Partner to structure a proposal to DNRC. The structure of proposals should follow the same three tiered guidelines for other area conservation buyers that are identified in the first section of this Plan.

B. Limited Development Area. In the southwest corner of the subarea, there is a 255-acre lodge pole pine forest area. This parcel is set away from public use areas and offers the opportunity for limited residential development. Access to this area is from the primary county road near the State Trust Land boundary. Ideally, this area would be sold to one or two conservation buyers that would help protect other portions of the subarea. However, if these areas are developed more conventionally, they can also assist in protecting other portions of the subarea. As in the KM area, to the extent that development in this area exceeds one unit per 20 acres, an additional 20-acre portion of the subarea will be placed in permanent protection under a conservation easement. Therefore, under both the conservation buyer and more conventional development

scenarios, development on a small portion of land can help to protect permanently other, more important areas.

C. Skyles Lake Development. The U-shaped Skyles Lake parcel is in proximity to Highway 93 and the east side is relatively close to Whitefish City utilities. The east (approximately 173 acres) and west (approximately 128 acres) sides of the parcel are appropriate for development, while the middle portion is steep and difficult to develop. As in the above area, to the extent that development in this area exceeds one unit per 20 acres, an additional 20-acre portion of the subarea will be placed in permanent protection under a conservation easement. Therefore, development on a portion of the Skyles land will help to permanently protect other, more important areas in the subarea. It should be noted that the Skyles parcel could be used to help protect Beaver Lakes or the Spencer subarea, depending on where the protection need is greatest.

D. Back-Country Lodge. At DNRC's option, it may examine the feasibility of establishing a back-country lodge in the vicinity of Murray Lake. If this concept is desirable, the lodge land could be leased on a long-term basis. The concept would be to create a backcountry lodge/destination resort in the tradition of national park architecture to blend in with surroundings. A set of design guidelines would have to be developed at the time of lease. The Murray Lake site is appropriate since it is remote and separate from other areas that receive higher public use.

If at the end of ten years, substantial progress has been made in generating additional revenue and/or protecting land through purchase or easements (over 1,000 acres protected), DNRC will commit to an additional ten years to work with the community and a Community Transaction Partner to protect the remainder. At any time, if the City of Whitefish, Flathead County and DNRC agree, these terms can be adjusted. If at the end of twenty years there are portions of Beaver Lakes that have not been protected, the community and DNRC will meet to develop a strategy or a new plan that will address their mutual objectives through cooperative action. As in all the subareas, this Plan recommends that DNRC look to additional revenue sources that could be generated through traditional activities such as timber sales, additional camping and/or cabin sites on lakes that currently have leases.

E. Stillwater Subarea

1. Current Situation and Planning Issues

The Stillwater parcel encompasses approximately 1,020 acres of land at the southern end of a large block of State Trust Lands managed as a State Forest. Located north of Whitefish, the parcel is easily accessed from Highway 93. The site has rolling forested terrain and is surrounded by a variety of rural residential development ranging from five to forty acres on the east, west and south. Plum Creek Timber and State Forest Lands are located to the east and north. A portion of the western boundary is the Highway 93 right of way and the west side of the property also has the main line of the BNSF railroad line traversing from north to south. Lupfer Road, a county maintained road, accesses the property from the south after crossing the BNSF railroad line.

The Stillwater area is undeveloped and managed for timber production. Area residents use the parcel recreationally for mountain biking, hiking, hunting and fishing, wildlife viewing, horseback riding, cross country skiing, backcountry skiing, snow shoeing and snowmobiling. The area supports a variety of wildlife including elk, deer and grizzly bear. The Lazy Creek wolf pack uses portions of the Stillwater area adjacent to the Plum Creek Olney Block. This area is located outside the Whitefish Planning jurisdiction.

2. Planning Process

The Advisory Committee reviewed a variety of site and surrounding area information as shown on the accompanying maps. The heart of the Stillwater subarea connects to the State Forest and contains good timberland that DNRC would like to continue to manage productively. Much of the discussion focused on alternative ways to develop the east and west sides of the parcel in ways that retained wildlife values and permanently protected the heart of the property. The west side contains an area that is bordered by Highway 93 and the railroad tracks, while the east side a county road that serves adjacent rural residential tracts bisects area.

3. Subarea Neighborhood Plan Concept and Implementation Strategy

The objective of the approach adopted for Stillwater is to permanently protect for public access and use the heart of the property by transferring density to lands on the east and west sides of the subarea. As a result, limited, but valuable real estate products are created on a small portion of the land while DNRC continues to manage most of the land for traditional forestry. In order for this concept to be put in motion, the Stillwater parcel will be divided into three management areas. These areas are:

1. *West Side.* This area consists of approximately 66-acres of land sandwiched between Highway 93 and the BNSF railroad line. This area can be developed for residential or light industrial uses as long as it meets a number of performance criteria that are discussed below. If this area were developed for light industrial uses the preference would be for leasing sites for long-term use.
2. *Interior.* This 755-acre area consists of most of the Stillwater subarea and contains the prime habitat and timber resources. DNRC will continue to manage this land for timber and wildlife for a minimum of ten years and likely much longer.
3. *East Side.* This area consists of a 160-acre parcel of land that is bisected by Lupfer Road, a county maintained road. Subdivision and development of private lands has occurred to the north and south of this parcel. In addition, there is a fairly steep ridge that separates the East Side from the Interior. Ideally, this area would be sold to one or two conservation buyers that would help permanently protect the Interior portion of the subarea. The alternative form of development would be cluster development that provides open space between nodes of development for wildlife movement and retention of rural character. As in the KM area, to the extent that development in this area exceeds one unit per 20

acres, an additional 20-acre portion of the Interior for each dwelling unit will be placed in permanent protection under a conservation easement. Therefore, under both the conservation buyer and cluster development scenarios, development on a small portion of land would help to permanently protect other, more important areas.

Key to this plan is a set of performance standards for the West and East Sides. For the West Side the following performance standards would be required of new development, whether it was residential or light industrial:

1. All development shall be set back a minimum of 50 feet from the edge of the Highway 93 right of way. All structures shall be shielded from view by either natural vegetation or a landscape buffer with tree heights comparable to the height of new structures.
2. The height of new structures shall be limited to 35 feet above existing natural grade.
3. No more than two access points shall be permitted to serve the development. If necessary a loop road should be constructed within the site to provide access to residents or businesses.
4. All outdoor lighting shall be down directed to minimize the impact of light sources on the night sky.
5. All business signs shall meet City and County requirements, with the most restrictive standards applying. A registry sign only is permitted on Highway 93. All other signage shall be on the internal loop road.

For the residential area on the East Side the following performance standards shall apply to cluster development:

1. No more than a 3/4-acre building envelope may be utilized for a principal residence and outbuildings;
2. Minimize site disturbance; no over-lot grading permitted and take all reasonable and prudent erosion control measures;
3. New construction shall minimize roadway/driveway lengths and widths and minimize the amount of cut and fills. The DNRC reserves the right to reject any proposal that contains excessive roadway/driveway lengths;
4. Landscaping shall be achieved utilizing native vegetation;
5. Open pole or wire agricultural fencing is permitted around the perimeter of the building envelope if it is "wildlife friendly" as determined by MT FWP. Solid fencing is permitted around small privacy areas directly adjacent to the main residence. Otherwise, no fencing is permitted;
6. In order to minimize wildlife conflicts home site owners should utilize practices and precautions identified in the Montana Fish Wildlife and Parks 'Living with Wildlife' brochures;
7. The use of materials, textures and colors found naturally occurring in the surrounding landscape are encouraged; and,

8. No towers or structures above 35 feet should be constructed on the building envelope.

An alternative option for the Stillwater subarea is the possibility of trading the East and/or the West Sides for Plum Creek lands in the Whitefish area that have wildlife and forestry values suitable for long-term DNRC management. In this case, the above performance standards would apply to the new owners of the land, likely Plum Creek or their successors.

F. Haskill Subarea

1. Current Situation and Planning Issues

The Haskill parcel includes approximately 520 acres of land in the foothills of the Whitefish Range, approximately four miles east of Whitefish Lake. Haskill Creek, which supports cutthroat trout, runs through the center of the property and is a primary source for the City's municipal drinking water. Access to the property is limited to private, unimproved logging roads. The parcel is remote and has some steep areas mixed into the rolling topography. Much of the stream bank above Haskill Creek is steep and subject to erosion. The area has sensitive wildlife habitat associated with grizzly bears.

Adjacent lands are zoned for 20-acre lots with Stoltz Lumber owning land on the northwest and south and the U.S. Forest Service on the north and east. Smaller 20 to 40-acre private properties are interspersed among the public and private timberlands. The North Woods subdivision, a residential development to the southwest of the Haskell subunit was built in the 1970s and includes nice homes built on one to five acre sites. The area is generally undeveloped and used for timber production.

Recreational uses in the Haskell basin include mountain biking, hiking, fishing, wildlife viewing, horseback riding, cross country skiing, backcountry skiing, snow-shoeing and snowmobiling. There is reportedly unauthorized trail access to the Big Mountain ski area from this area.

2. Planning Process

The Advisory Committee reviewed a variety of site information as shown on the accompanying maps. Given that the site is remote, accessed by private roads, is part of the Whitefish watershed and has good timber and wildlife values, it was felt that Haskell Basin should be managed to retain these values. Very minimal development that paid for the protection of the remainder of the site was considered appropriate. As a result, a number of conservation buyer concepts were explored. Given that the Haskell Creek banks are steep and prone to erosion, a no-build buffer was judged to be important.

3. Subarea Neighborhood Plan Concept and Implementation Strategy

The Haskell Basin subarea contains valuable wildlife habitat and watershed lands that should be protected. Development beyond a very minimal level would be destructive of these values. As a result, the Plan for the Haskell subarea is to sell two home sites to two conservation buyers on the east and west sides of Haskell Creek. DNRC will commit to

maintain these lands in forestry management for a minimum of ten years or until conservation buyers are located for the parcel. The east side of Haskell Creek would be sold to a conservation buyer who would place a conservation easement on the land limiting use to a 5-10-acre home site. The conservation buyer would also purchase a conservation easement over the remainder of the east side. In this manner, DNRC would receive fair value for the interests purchased and either retain the underlying fee interest for forestry purposes or transfer the fee, but retaining public access rights and a conservation easement preventing future development. A similar strategy would be undertaken for the west side of Haskell Creek, with access coming from a logging road to the south of the parcel. Depending on DNRC's ability to sell conservation easements, this strategy could be implemented in the short or long terms.

The following performance guidelines shall be utilized in the selection of home site locations:

1. No more than a 5-acre building envelope may be utilized for a principal residence and a guest or caretaker house and outbuildings.
2. Building envelopes shall be within 1/2 mile of the existing State Trust Land boundary.
3. Building envelopes cannot be placed closer than 1/4 mile from traditional or planned recreational access routes and all traditional recreational access shall be maintained.
4. All structures shall be at least 100 feet from Haskell Creek.
5. New construction shall minimize site disturbance and take all prudent erosion control measures.
6. New construction shall minimize roadway/driveway lengths and widths and minimize the amount of cut and fills. The DNRC reserves the right to reject any proposal that contains excessive roadway/driveway lengths.
7. Landscaping shall be achieved utilizing native vegetation.
8. Open pole or wire agricultural fencing is permitted around the perimeter of the building envelope if it is "wildlife friendly" as determined by MT FWP. Solid fencing is permitted around small privacy areas directly adjacent to the main residence. Otherwise, no fencing is permitted.
9. In order to minimize wildlife conflicts home site owners should utilize practices and precautions identified in the Montana Fish Wildlife and Parks 'Living with Wildlife' brochures.
9. The use of materials, textures and colors found naturally occurring in the surrounding landscape are encouraged.
10. No towers or structures above 35 feet should be constructed on the building envelope.

IV. Additional Information

A. Montana School Trust Land Management Overview

Under the Enabling Act approved February 22, 1889, the Congress of the United States granted to the State of Montana sections sixteen and thirty-six in every township within the state. These “trust lands” were set aside for the support of the “common schools. Some of these sections had been homesteaded, some were within the boundaries of Indian reservations, and yet others had been otherwise disposed of before passage of the Enabling Act. To make up for this loss, and in lieu thereof, other lands were selected by the State of Montana. The Enabling Act further provided that proceeds from the sale and permanent disposition of any of the trust lands, or part thereof, shall constitute permanent funds for the support and maintenance of the public schools and the various other state institutions for which the lands had been granted. The Montana Constitution provides that these permanent funds shall forever remain inviolate, guaranteed by the State of Montana against loss or diversion.

The Trust Land Management Division (TLMD) of DNRC is responsible for the administration and management of the state trust timber, surface, and mineral resources associated with these lands, for the benefit of the common schools and the other endowed institutions in Montana. The mission of the Trust Land Management Division is to manage the State of Montana’s trust land resources to produce revenues for the trust beneficiaries while considering environmental factors and protecting the future income-generating capacity of the land. The Division is divided into four bureaus: Agriculture and Grazing Management, Forest Management, Minerals Management, and Special Use Management. Under the direction of the State Board of Land Commissioners, which consists of Montana's top elected officials, the Department's obligation is to obtain the largest measure of legitimate and reasonable advantage for the school trusts. The greatest monetary return to current beneficiaries must be weighed against the long-term productivity of the land to ensure continued returns to the trusts in perpetuity.

The management of Montana’s Trust Lands is the responsibility of the Trust Land Management Division of the Montana Department of Natural Resources and Conservation. The Department is governed by a series of statutes as well as the state Constitution. A partial list of relevant policies, statutes and sections of the Constitutions are provided in Appendix A.

B. School Trust Lands Forest Management

The majority of the 13,000 acres within the study area are classified as Forest Land under the Trust Land classification system. These lands are managed for a sustainable supply of forest products and diverse habitat under the direction of the State Forest Land Management Plan, adopted in 1996, and the Forest Management Administrative Rules adopted in 2003. Statewide sustained yield projections completed in 1996 allow for an annual harvest of 42.2 million board feet (mmbf) from the 720,160 acres of forested school trust land. The sustained yield figure is currently under review and is expected to increase slightly from the 1996 number. The Northwest Land Office, which manages the lands within the project area, is responsible for nearly half of the annual statewide

sustained yield harvest. The continued active management of the forestlands included in this study area is critical to the ability of the DNRC to continue to meet the sustained yield commitments and contributes significantly to the local economy through providing raw material for the local forest products industry.

C. Whitefish State Trust Lands Principles or Criteria for Success

The following principles were developed and agreed to by the Advisory Committee at the beginning of the planning process. These principles have guided the actions and served as a framework for the deliberations of the Advisory Committee.

1. **Open and Collaborative Process.** The aim of this planning process is to produce a Neighborhood Plan that defines both a land use and conservation product for the six parcels of Montana School Trust Lands (the “Trust”). This process should meet the primary objectives of the City of Whitefish (“Whitefish”), Flathead County (“County”) and the Trust. Whitefish, the County and the Trust recognize that they are starting with different objectives but that through a collaborative process it is possible to explore and create solutions that are beneficial to their interests and that increase the predictability of desirable outcomes. In order to arrive at an acceptable plan, participants must be willing to openly explore alternatives without commitment to preconceived solutions. There is mutual risk taking. The participants desire to maximize benefits and minimize potential losses through this joint planning process. All participants enter this process with constructive, open and flexible attitudes.
2. **Trust Objectives.** The primary objective of the Trust is to realize a fair economic return from the use or disposition of these lands for the benefit of the state school trust or its beneficiaries. In addition, to the extent that development is appropriate on the Trust Lands, to obtain public planning approvals necessary for the use or disposition of those lands. For purposes of this study, the term “fair economic return” may mean 1) fair market value, the value that an informed buyer would pay for these lands recognizing their positive and negative attributes and local conditions; 2) the rental, lease or other annual income derived from the use of these lands; or 3) the income derived from a combination of sales of interests in land, lease or rental income and income from public, private or non-profit sources to retain identified community values. In addition, the Trust desires to work cooperatively with the Whitefish community and Flathead County as a good neighbor and promote an understanding of State Trust Lands and its mission.
3. **Community Objectives.** The primary objective of the City of Whitefish and the surrounding community is to see that Trust lands that have important natural resource and recreation values be protected to retain those characteristics for the benefit of the community and Flathead County residents. In addition, to the extent that real estate development is indicated on these properties in order to generate economic value, that new development respond to the preferences and unmet needs of Whitefish and the surrounding community.

- 4. Local Government Objectives.** The location of the Trust Lands parcels places them under the jurisdiction of both Flathead County and the City of Whitefish. The two jurisdictions have different attitudes towards growth and development. Flathead County desires that the development and use of the State Trust Lands address concerns identified in the County Growth Policy and that proposed uses and densities comply with applicable State and County standards and regulations. The City of Whitefish through its Growth Policy desires to see Trust lands continue to be available for community use and if developed, to have less dense development that fits in and blends with the surrounding landscape, responds to input from the local community and does not create undue service burdens. The two jurisdictions recognize the legitimate approaches of the other and will work in constructive, open and flexible ways to reach mutually desirable agreements.
- 5. Identify Development, Community and Conservation Opportunities, Constraints and Strategies.** All of the Trust parcels should be analyzed for their natural resource characteristics, development potential and community values. The objective of this exercise is to define those parcels that have high natural resource, community or recreation values, high opportunities for development or a mix of natural resource, community and development opportunities. The planning process will then focus on not only the type of natural resource and development products that are appropriate for these areas but also strategies to achieve the Trust financial objectives, Whitefish community and County objectives. A full range of creative natural resource protection, recreation and development options should be considered.
- 6. Land Uses.** In defining the types of appropriate land uses, preference shall be given to those kinds of uses that fit in and blend with the natural landscape, which meet critical needs and concerns identified by the Whitefish community and the County, which meet economic objectives and which minimize the amount and area of disturbance. New development land use should pay its own way and the pace of development should occur at a rate that does not overwhelm City or County services. The County, the Whitefish community and the Trust will have to jointly identify the types of land uses and development that are desirable from their different perspectives.
- 7. Neighborhood Plan and Time Table.** The Neighborhood Plan should identify the use, development and land protection program for each of the Trust Land parcels. Among other things the Plan will identify areas appropriate for development, including recommended development types and densities, appropriate recreation, community, or extractive use areas and their economic benefit, and areas appropriate for natural resource protection or that are unsuitable for development. A timeframe for the disposition of the parcels shall also be identified. This time frame shall identify the minimum amount of time prior to the disposition or change of use of each of the parcels. No parcel should be disposed of prior to the date identified in the timetable. The objective of this timetable is twofold. First, to give the Whitefish community and its various partners reasonable time to develop

alternative acquisition or protection strategies that might lessen the impact of development or lead to greater community or conservation benefit. Second, to identify a set time frame for the Trust that would allow for reasonable and economically beneficial disposition or use of the individual parcels, with the assurance that Whitefish and the County will support such development and uses.

8. **Plan Completion.** Whitefish, Flathead County, and the Trust agree to stay engaged in the planning process so that it can be completed by the end of September, 2004. In the event that there are unresolved disagreements between the Parties, these shall be noted in the Plan.

D. Zoning and Subdivision Regulations

The Whitefish State Trust Lands Neighborhood Plan is located entirely within the County and is therefore subject to Flathead County land use regulation. The County is responsible for enforcement of the zoning and subdivision statutes affecting the Trust Lands in this planning process. The Trust Land planning area includes lands that are zoned Ag-40 and Ag-20 as well as those which are un-zoned. Unzoned lands are considered to have a density of 1 home per 20 acres until such time as zoning is applied. Clustering is not permitted in Ag-40 zoned areas.

E. Growth Policy Compliance

The Whitefish School Trust Lands Neighborhood Plan is adopted as a document compliant with the Growth Policy Statutes (76-1-601). This document is intended to be an addendum to the existing Flathead County and Whitefish City-County Master Plans as well as the future Flathead County and Whitefish City-County Growth Policies. This Neighborhood Plan is written as a Growth Policy compliant document.

Growth Policy compliant neighborhood plans must, at a minimum, provide the following elements:

- Community Goals and Objectives.
- Maps and Text describing the jurisdictional areas
- Projected trends for each of the neighborhood plan elements
- Policies and implementation tools for the Plan's goals and objectives.
- A strategy for the development, maintenance, and replacement of public infrastructure.
- A timeline for implementation and updating of the neighborhood Plan.
- A statement that explains the cooperation between the DNRC, Flathead County and the City of Whitefish.
- A statement that describes how subdivisions will be reviewed and the due process rights.

The following overview is a description of how the Whitefish School Trust Lands Neighborhood Plan complies with the Growth Policy Statutes. This overview directs the reader to the sections of the plan that address the required elements.

Community Goals and Objectives.

Section II of the Whitefish School Trust Lands Neighborhood Plan clearly defines the Goals and policies for the various lands within the Plan boundaries. These goals and objectives were developed over the course of a year and a half of community meetings, and local advisory committee meetings. The Advisory Committee is made up of stakeholders and interested citizens. The Advisory Committee provided the vital link between the public-at-large and the DNRC in crafting this Neighborhood Plan. A description of the planning process and community meetings, and public input are described in Section IV.C of the Plan.

Maps and Text Describing the Jurisdiction.

The Plan document provides a complete map inventory of the School Trust Lands within the Plan area and the Sub-area boundaries. Descriptions of the Sub Areas are found in Section III of the Neighborhood Plan document.

Projected Trends of the Plan Elements.

As part of the Whitefish School Trust Land neighborhood Plan, there is a companion **Resource Document**. The Resource document provides current data as well as projected trends. The Resource document provides information on the following items: Land Use, Transportation, Utilities and Service, Population, Housing Characteristics, Economic Conditions, and Natural Resources.

In addition to the Resource Document, the Neighborhood Plan, through the sub-area Section described in the plan, gives a brief description of the existing land use, major transportation links, and natural resources located within the sub-area. The Neighborhood Plan and its surrounding area have rural population with low densities and large tracts of forest and agricultural lands. As addressed in Table ____ of the 12,870 acres within the plan area there is a potential to develop 9.4%, which is consistent with a low populated rural setting.

As stated in Goal #5 the Neighborhood Plan hopes to develop additional revenues on School Trust Lands that are compatible with the Community Values. This Goal attempts to balance the mandate to generate income on the trust lands with the values for recreation, timber management, and conservation. The Neighborhood Plan presents some creative ideas to accomplish this goal.

Policies and Implementation Tools

Section II of the Neighborhood Plan presents the Goals of the Plan with policies to implement the Goals. Section III of the Neighborhood Plan breaks the School Trust lands into sub-areas that provide specific implementation strategies along with the timeframe on when the implementation will be accomplished.

A strategy for the development, maintenance, and replacement of public infrastructure.

The majority of the Whitefish School Trust Lands Neighborhood Plan falls in the rural portions of the Whitefish City County Master Plan area and the Flathead County Master Plan areas. As such the public infrastructure is of a rural nature with the Flathead County Road department providing maintenance of the existing County Roads. New roads providing access to the development pods would be developed to a rural standard and be privately constructed and maintained as is the policy of Flathead County.

Sewer and water facilities would most likely be provided through individual well and septic infrastructure with the exception of three sub-areas. If the Happy Valley sub-area is developed, the Plan would require a community sewer and water system that would address the needs of the development on the Trust Lands as well as the greater Happy Valley community, which is struggling with sewage disposal problems. The Skyles Lake Sub-area (Item C) is in close proximity to City of Whitefish utilities and would be encouraged to use these facilities if it were to develop. The last sub-area is the Swift Creek vicinity with the Neighborhood Plan providing an opportunity for development of a community sewer facility on trust lands near the head of the Lake. This facility would help remove old septic systems from the lake front lots in order to facilitate water quality issues identified through the planning process.

For those areas that would use individual septic service, that infrastructure is reviewed, approved and inspected by the Flathead City-County Health Department, Environmental Health Services. The Environmental Health Department reviews individual and community sewerage systems for compliance with their adopted rules designed to prevent harmful impacts to the land and water resources.

Overall, the impacts associated with development of the School Trust Lands identified in the Plan would be addressed when specific applications are presented. For example subdivision would go through the Montana Environmental Protection Act (MEPA) process and the Montana Subdivision Act process as adopted by Flathead County and the City of Whitefish. The Subdivision Act requires specific analysis of the project in relation to its impact on public services and the level of service.

A timeline for implementation and updating of the Neighborhood Plan.

Goal #3 and Policy 3.1 of the Neighborhood Plan establishes the timeframes for implementing the Plan. The Whitefish School Trust Lands Neighborhood Plan is truly a long-range planning document with many of the implementation strategies occurring ten or more years out. These timeframes reflect the complexity and diversity of the School Trust Lands and the creativity needed to accomplish the goals of this Neighborhood Plan. The timeframes also reflect the current workloads of the DNRC staff and their ability to bring projects online.

A statement that explains the cooperation between the DNRC, Flathead County and the City of Whitefish.

The Whitefish School Trust Lands Neighborhood Plan is founded in cooperation between the DNRC, State Lands Board, Flathead County officials, City of Whitefish Officials, the Local Trust Lands Advisory Committee and the community at large. There is a Charter dated September 15, 2003 that was approved by the DNRC, Flathead County, and the City of Whitefish that establishes a framework for cooperation between the entities and establishes the Local Advisory Committee.

A statement that describes how subdivisions will be reviewed what are the due process rights.

Subdivision will be reviewed per the Montana Subdivision and Platting Act Title 76, Chapter 3. Subdivisions on School Trust Lands are also subject to the MEPA review as defined in state statutes. The public is noticed and invited to comment on the EIS through the MEPA process. The MEPA review will be completed prior to submission of a subdivision application. All subdivision on School Trust Lands will be reviewed for compliance with the adopted Whitefish School Trust Lands Neighborhood Plan.

Title 76-3-608(3)(a) of the Platting Act identifies the six items (Agriculture, Agriculture Water User Facilities, Local Services, the Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety) for the governing body must evaluate the effect as a result of a subdivision. The Growth Policy Statutes require that we define the terms of 76-3-608(3)(a).

Agriculture – All aspects of farming, including the practice of cultivating the ground, raising crops and or rearing animals. Any forestry or lumbering operations, timber production and management of forest lands.

Agricultural Water User Facilities – Those facilities that provide water for agricultural lands as part of an irrigation system used in the production of agricultural products on property used for agricultural purposes.

Local Services – All services or facilities that local government entities are authorized to provide.

The Natural Environment – The physical conditions, which exist within a given area including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic consideration.

Wildlife – Living things, which are neither human nor domesticated.

Wildlife Habitat – Place or type of site where wildlife naturally lives and grows.

Public Health and Safety – A condition of optimal well-being, free from danger, risk or injury for a community at large, or for all people, not merely for the welfare of a specific individual or small class of persons.

For minor subdivision (5 or fewer Lots) in the County, the plats will be submitted to the Flathead County Planning Office for review of the statutory criteria. Public hearings and adjacent landowner notification are not required for minor subdivision. After review by the County Planning Office, the Subdivision Application is sent to the Flathead county Commissioners along with a staff report and recommendation with conditions. The Planning Office will review the proposal for compliance with the Whitefish School Trust Lands Neighborhood Plan as part of the staff report and recommendation. The County Commissioners will hold a meet at a regularly scheduled meeting that is open to the public but not to public debate. The Commissioners will conditionally approve or deny the subdivision. If approved the developer will have three years to comply with the conditions of approval and make any infrastructure improvements as required. Once the conditions have been met or addressed through a Subdivision Improvements Agreement the County Commissioners will than approve the Final Plat and the subdivision will be recorded.

For major subdivision (6 or more lots) in the County, the plats will be submitted to the Flathead County Planning Office for review of the statutory criteria. A Public hearings and adjacent landowner notification is required for major subdivision. The Planning Office will review the proposal for compliance with the Whitefish School Trust Lands Neighborhood Plan as part of the staff report and recommendation After review by the County Planning Office, the Subdivision Application, staff report, and recommended conditions are sent to the Whitefish City-County Planning Board in the Whitefish Planning Jurisdiction or Flathead County Planning Board for properties in the Flathead County Planning Jurisdiction. The Planning Board will hold a public hearing on the subdivision in which the public is invited to comment. The Planning Board will take the staff report and public comment and make a recommendation to approve or deny the subdivision to the County Commissioners. The Flathead County Commissioners will than review the staff report, public comment from the planning board meeting and the planning board recommendation. The County Commissioners will hold a meeting at a regularly scheduled meeting that is open to the public but not to public debate. The Commissioners will conditionally approve or deny the subdivision. If approved the developer will have three years to comply with the conditions of approval and make any infrastructure improvements as required. Once the conditions have been met or addressed through a Subdivision Improvements Agreement the County Commissioners will than approve the Final Plat and the subdivision will be recorded.

If a subdivision is proposed on School Trust Lands that will annex to the City of Whitefish and use City utilities, the Tri-City Planning Office will conduct the staff review for compliance with the Whitefish School Trust Lands Neighborhood Plan and statutory criteria and make recommendations to the Whitefish City County Planning Board. The review process and public hearing requirement for minor and major subdivision are the same as that of a county subdivision with the exception that Planning Board

recommendations are sent to the Whitefish City Council for approval or denial of the subdivision.

Should the Planning Jurisdiction be amended by the City of Whitefish and Flathead County in the future, an inter-local agreement between the City of Whitefish and Flathead County will describe the process for review of subdivisions in the newly aligned jurisdiction boundaries.

F. Information on Conservation Easements—Provided by the national Land Trust Alliance

WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a legal agreement that a property owner makes to restrict the type and amount of development that may take place on his or her property. Each easement's restrictions are tailored to the particular property and to the interests of the individual owner.

To understand the easement concept, think of owning land as holding a bundle of rights. A landowner may sell or give away the whole bundle or just one or two of these rights. These may include, for example, the right to construct buildings, to subdivide the land, to restrict access, or to harvest timber. To give away certain rights while retaining others, a property owner grants an easement to an appropriate third party, such as a land trust, a public agency or a historic preservation organization.

An easement runs with the land and is recorded at the county or town records office so that all future owners and lenders will learn about the restrictions when they obtain a title report. The original owner or donor of the easement and all subsequent owners are bound by the restrictions of the easement.

WHY GRANT A CONSERVATION EASEMENT?

People grant conservation easements to protect their land or historic sites from inappropriate development while retaining private ownership. By granting an easement in perpetuity, the owner may be assured that the resource values of his or her property will be protected indefinitely, no matter who the future owners are. Granting an easement can also yield tax savings.

MUST AN EASEMENT ALLOW PUBLIC ACCESS?

Landowners who grant conservation easements generally make their own choice about whether to open their property to the public. Some landowners convey certain public access rights, such as allowing fishing or hiking in specified locations or permitting guided tours once a month. Others do not.

If an income tax deduction is to be claimed, however, some types of easements require access. If the easement is given for recreation or education purposes, public access is required. For scenic easements, much of the property must be visible to the public, but physical access is not necessary. Access is generally not required for easements that protect wildlife or plant habitat or agricultural lands.

DOES AN EASEMENT REDUCE A DONOR'S INCOME TAX?

The donation of a conservation easement can be ruled a tax-deductible charitable gift, provided that the easement is perpetual and is donated "exclusively for conservation purposes" to a

qualified conservation organization or public agency. Internal Revenue Service makes the final decision as to deductibility and Code 170 (h) generally defines "conservation purposes" to include the following:

- * The preservation of land areas for recreation by, or the education of, the general public, provided such access is for substantial and regular use.
- * The protection of relatively natural habitats of fish, wildlife or plants or similar ecosystems.
- * The preservation of open space -including farmland and forestland- when pursuant to a clearly delineated government conservation policy or for the scenic enjoyment of the public. In both cases such open space preservation must yield a significant public benefit.
- * The preservation of an historically important land area or a certified historic structure.

To determine the value of the easement donation, the owner has the property appraised both at its fair market value without the easement restrictions and at its fair market value with the easement restrictions. The difference between these two appraised values is the tax deductible easement value. Detailed federal regulations govern these appraisals.

CAN GRANTING AN EASEMENT REDUCE ESTATE TAX?

Heirs to farms, ranches and urban open spaces can face large estate taxes. Even if the heirs wish to keep their property in its existing condition, federal estate tax is levied not on the value of the property for its existing use, but on its fair market value which is usually the amount a developer or speculator would pay. The resulting estate tax can be so high that the heirs must sell the property to pay the taxes.

A conservation easement, however, often can reduce estate taxes. If the property owner has restricted the property by a perpetual conservation easement before his or her death, the property must be valued in the estate at its restricted value. To the extent that the restricted value is lower than the unrestricted value, the value of the estate will be less and there will be a lower estate tax. Such an easement could also be donated in a person's will thus having the same effect.

G. Charter for the DNRC Whitefish Neighborhood Plan

Insert

H. Whitefish Trust Lands Resource Maps

Insert 12 maps